

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

ANDREW L. SALZMAN, MITCHELL P. FINK
and JEFFREY B. KANE
Junior Party¹

v.

RICHARD FIDDIAN-GREEN
Senior Party²

¹ Patent No. 5,423,320, granted June 13, 1995, based on Application 08/049,549, filed April 20, 1993. Assignor to Argus Critical Care, Inc.

² Application 08/452,183, filed May 26, 1995, based on Application 08/322,081, filed October 12, 1994, now U.S. Patent No. 5,456,251, issued October 10, 1995; which is a continuation of Application 08/270,988, filed July 5, 1994, abandoned; which is a continuation of Application 08/146,427, filed October 29, 1993, abandoned; which is a continuation of Application 08/014,624, filed February 8, 1993, abandoned; which is a continuation of Application 07/892,631, filed June 2, 1992, now U.S. Patent No. 5,186,172, issued February 16, 1993; which is a continuation of Application 07/733,071, filed July 17, 1991, abandoned; which is a continuation of Application 07/496,185, filed March 20, 1990, abandoned; which
(continued...)

Interference No. 103,939

Patent Interference No. 103,939

Before METZ, PATE and MARTIN, Administrative Patent Judges.

PATE, Administrative Patent Judge.

JUDGMENT UNDER 37 CFR § 1.640

Background

The Administrative Patent Judge is in receipt of a response by junior party Salzman et al. to the Order to Show Cause mailed September 29, 1998. The junior party states that the Order to Show Cause should be limited to claims 1-4, designated as corresponding to count 1 and claims 5-12, designated as corresponding to count 2. This is correct.

²(...continued)
is a continuation of Application 07/380,706, filed July 13, 1989, abandoned; which is a continuation of Application 07/237,287, filed August 26, 1988, abandoned; which is a continuation-in-part of Application 07/994,721, filed December 22, 1992, abandoned; which is a continuation of Application 07/719,098, filed June 20, 1991, now U.S. Patent No. 5,174,290, issued December 29, 1992; which is a continuation of Application 07/496,186, filed March 20, 1990, abandoned; which is a continuation of Application 07/380,704, filed July 13, 1989, abandoned; which is a continuation of Application 07/237,286, filed August 26, 1988, abandoned.

Interference No. 103,939

The original Fiddian-Green motion only ran to claims 1-12, and, in point of fact, Salzman et al. claims 13-16 are outside the subject matter of the interference.

Accordingly, the following judgment specifying only claims 1 through 12 is entered.

Judgment

Judgment in Interference No. 103, 939 is hereby entered in favor of Richard Fiddian-Green, the senior party. Richard Fiddian-Green is entitled to a patent containing claims 54 through 57, which correspond to count 1 in interference, and claims 58 through 73, which correspond to count 2 in interference. Judgment is entered against Andrew L. Salzman, Mitchell P. Fink, and Jeffrey B. Kane, the junior party. Andrew L. Salzman, Mitchell P. Fink, and Jeffrey B. Kane are not entitled to their patent claims 1 through 4, which claims correspond to count 1 in interference, and claims 5 through 12, which claims correspond to count 2 in interference.

Interference No. 103,939

	ANDREW H. METZ)	
	Administrative Patent Judge)	
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PATENT			
	WILLIAM F. PATE, III)	APPEALS AND
	Administrative Patent Judge)	
INTERFERENCES			
)	
)	
)	
	JOHN C. MARTIN)	
	Administrative Patent Judge)	

WFP:psb

Interference No. 103,939

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